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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/023,346 | 12/17/2001 | John Lipp | 2063.001700 | 7997 |

23720 7590 04/26/2004

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HOUSTON, TX 77042

EXAMINER

MAI, TAN V

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2124

DATE MAILED: 04/26/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

Office Action Summary

Application No.

10/023,346

Applicant(s)

LIPP, JOHN

Examiner

Tan V Mai

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11, 12, 17, 18, 20, 22 and 24-35 is/are rejected.
- 7) ☒ Claim(s) 7-10, 13-16, 19, 21 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2124

1. The examiner respectfully requests the information disclosed in the specification, pages 2-4, "DESCRIPTION OF THE RELATED ART".

2. The abstract of the disclosure is objected to because superfluous language and legal phraseology are used in this paragraph (i.e., "[t]he invention" and "comprising").

Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities:

In the specification, pages 2 & 18; the status of Co-pending Application(s) Serial No. is required to be kept current.

Appropriate correction is required.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6, 11-12, 17-18, 20, 22, and 24-35 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Applicant's specification, pages 2-4, "DESCRIPTION OF THE RELATED ART".

Applicant's specification, pages 2-4, "DESCRIPTION OF THE RELATED ART", discloses the claimed invention. It is noted that **equations (11)-(14) & (19)** of the "DETAILED DESCRIPTION OF THE INVENTION" are **identical** to **equations (1)-(4) & (6)** of the "DESCRIPTION OF THE RELATED ART". It is also noted that the examiner believes the claimed "smoothed estimate" feature refer to equation (19).

5. Claims 7-10, 13-16, 19, 21 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cited references are art of interest.

7. The following is an examiner's statement of reasons for allowance: the recorded references do NOT teach or suggest: (1) the detail features of claims 7, 13 & 21 [as shown in Figs. 3 & 7] and (2) the detail features of claim 21 [as shown in equation (21)-(22) & (20)] & claim 23 [as shown in equation (21)-(22) & (36)].

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan V. Mai whose telephone number is (703) 305-9761. The examiner can normally be reached on Tue-Fri from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki, can be reached on (703) 305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are:

| | |
|--------------------|-----------------|
| After-final | (703) 746-7238 |
| Official | (703) 746-7239 |
| Non-Official/Draft | (703) 746-7240. |

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


TAN V. MAI
PRIMARY EXAMINER